

Letter Kellom
to the Comptroller of the University of Alabama

AN APPEAL

FROM

The Alumni of the University of Alabama

TO

The Legislature of the State,

FOR

AN EQUITABLE ADJUSTMENT OF THE CLAIM

OF

THEIR ALMA MATER

AGAINST

THE STATE OF ALABAMA

BY

J. H. FITTS, of TUSCALOOSA, ALABAMA,
CHAIRMAN ALUMNI COMMITTEE.

LIBRARY OF CONGRESS,
RECEIVED
AUG 12 1901
DIVISION OF DOCUMENTS.

Alabama University Society of Alumni
11.

AN APPEAL

FROM

The Alumni of the University of Alabama

TO

The Legislature of the State,

FOR

AN EQUITABLE ADJUSTMENT OF THE CLAIM

OF

THEIR ALMA MATER

AGAINST

THE STATE OF ALABAMA,

BY

J. H. FITTS, OF TUSCALOOSA, ALABAMA,
CHAIRMAN ALUMNI COMMITTEE,

BURTON & WEATHERFORD, TUSKALOOSA, ALA.

2/24/03

LI 63

A²

cop 1.2

*GENTLEMEN OF THE GENERAL ASSEMBLY
OF THE STATE OF ALABAMA :*

At the last Annual Commencement of the University of Alabama, the Alumni of that institution manifested an unusual interest in the affairs of their Alma Mater. Animated by a desire for the welfare of the University, and with the hope of promoting its prosperity and usefulness, they diligently inquired into its present condition and its past management, to find out if possible, the cause or causes which have retarded its growth and given rise to general complaint throughout the State. Their investigation into the present condition of the University was heartily welcomed by the Board of Trustees and the Faculty of the institution, both of which bodies rendered every assistance for the attainment of the object in view.

The result of this investigation by the Alumni, Board of Trustees, and Faculty, was, that the growth and prosperity of the University is now, and has been from its organization, hampered and crippled by a want of means, and that its future growth and increased usefulness depends entirely upon the enlargement of its endowment fund. They are firmly convinced that a great University can never be built up or maintained with the limited annual income from its endowment of \$24,000, which is all the University has been receiving for many years. No matter how splendid the buildings and apparatus for teaching may be, no matter how wise and judicious the Board of Trustees may plan and execute, nor how learned and capable the Faculty may be, with such a limited income from its endowment, it is absolutely impossible for the institution to be made a really great University, but is doomed to remain what it has always been—a College or Academic Hall—unless a crazy desire for numbers causes it to degenerate into an elementary school. The annual income from endowment last year was not sufficient to pay the salaries of the President, Professors, Teachers, and Officers. Instead of being able to

add other professional schools, it is now, and has been for many years, a hard struggle with the Board of Trustees to maintain on a meagre scale the only two schools—of Law and Engineering—which have been established. In the year 1890, the New York “Evening Post” published a list of all the State Universities in the United States, giving the annual income of each from its endowment fund. And where do you suppose the University of Alabama stood on this list? It stood next to foot; and the university at the foot of the list, the only one in the United States with an income less than the University of Alabama, had not at that time converted into money the lands donated by Congress for its endowment. Deeply impressed with the belief that the true cause of the present non progressive condition of the University is to be found in its limited endowment, and firmly believing that the institution has a just and equitable claim against the State, for a large amount, which on proper presentation would be recognized by all intelligent citizens, the Alumni of the institution have appointed a committee of nineteen of their number to present that claim to the Legislature of the State, with an earnest appeal for its adjustment. The Board of Trustees, co-operating with the Society of Alumni, have appointed a committee of five of their number, for the same purpose, with Hon. W. G. Clark, of Mobile, as chairman. In the discharge of my duty as chairman of the committee of Alumni, I propose to present the claim of our Alma Mater, and I earnestly beg you to give me your close and patient attention, for unless you do you will not understand the merits of our claim.

I feel that I am entitled to this indulgence on your part, 1st, Because of the difficulty, if not impossibility, of presenting in a connected and condensed form the facts and history of this claim, extending as it does through a period of seventy-five years, and scattered as it is through so many volumes. 2nd, Because I am the representative of over two thousand intelligent, useful, and prominent citizens of the State, who entreat you to hear me for their cause. 3rd, Because, as the law-mak-

ers of a great commonwealth, you should fully understand the nature of this claim, on account of the momentous results to the State, in the proper understanding and adjustment of the same.

In my effort to give a true history of this claim, and to present the same intelligently and fairly, I have carefully examined and studied all the books of account in the archives of the University, all the acts of the General Assembly, and all the publications heretofore made on the subject ; and I here make acknowledgements for assistance received from addresses made by Rev. John W. Pratt, Hon. George D. Shortridge, Gov. Henry W. Collier, and Joseph W. Taylor, Esq. To the "History of Education in Alabama," by Hon. W. G. Clark, with notes by W. S. Wyman, LL. D., I am also indebted. From some of these publications, and from an article in the "Atlanta Constitution" of June 15th, 1895, I have obtained valuable suggestions, and have, in a few instances, used almost the exact language of the authors.

Without further preliminary remarks, I will present the claim of the University against the State of Alabama, and shall divide the discussion under the following heads :—

- 1st. The origin of the University Endowment Fund.
- 2nd. The Legislature of Alabama was the Trustee of this Fund.
- 3rd. The gross negligence in the management of this Fund.
- 4th. The misappropriation of the Funds of the University.
- 5th. The character of the complaints against the University now are the same as they were in 1843 ; they grew out of the same cause which produces them now—a total inadequacy of endowment.
6. The loss to the University by gross negligence and misappropriation of its endowment exceeds the sum of two millions of dollars.
- 7th. The State is justly liable for the destruction of the University property by the Federal Army in 1865.

8th. The management of the lands granted to the University by the United States in 1884 contrasted with the manner in which the original land grant was managed.

9th. The condition of receipts and disbursements from the second land grant from the United States.

10. The manner in which the State can repay the University for this heavy loss, not only without any sacrifice, but actually with great profit to her citizens.

The first branch of this division :

THE ORIGIN OF THE UNIVERSITY ENDOWMENT FUND.

By the Act of Congress, passed Mch. 2, 1819, providing for the admission of Alabama into the Union, two propositions, among others of importance, were submitted for the free acceptance or rejection of the Convention of the Territory of Alabama, which assembled, by virtue of this Act of Congress, at Huntsville, Alabama, on the 5th of July, 1819, to form a Constitution and State Government for Alabama. One of these propositions was, that the 16th section in every township in the State should be granted, in fee simple, to the inhabitants of the township, for the use of schools. The other proposition was, that at least two entire townships should be devoted to the endowment of "a seminary of learning." The exact words of the 4th section of the act of Congress relating to the grant of these lands to the cause of education are as follows :—

"That thirty-six sections, or one entire township, to be designated by the Secretary of the Treasury, under the direction of the President of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of said State to be appropriated solely to the use of such seminary by the said legislature."

The acceptance of this donation of lands, and the implied agreement that they should be appropriated solely to the use of such seminary of learning by the people of the Territory of

Alabama, was a condition precedent, prescribed in this act by Congress, for the admission of Alabama into the Union of States. No one can say or believe that Alabama would have been allowed by Congress to have become a State at that time, if the people of the Territory had refused to accept this grant of lands and declined to enter into an agreement to execute the sacred trust which the acceptance imposed. What was the action of the people of the Territory of Alabama in regard to this requirement of Congress, before they could be admitted as one of the States? A territorial convention assembled at Huntsville, Alabama, on the 5th of July, 1819, to adopt a constitution under which the new State was to be organized, and in the constitution which was adopted by this territorial convention, we find the following provisions for the promotion of education:—

“Schools, and the means of education shall forever be encouraged in this State; and the General Assembly shall take measures to preserve from unnecessary waste or damage, such lands as are or hereafter may be granted by the United States for the use of schools within each township in the State, and apply the funds, which may be raised from such lands, in strict conformity to the object of such grant. The General Assembly shall take like measures for the improvement of such lands as have been or may be hereafter granted by the United States to this State, for the support of a seminary of learning, and the moneys which may be raised from such lands, by rent, lease, or sale, or from any other quarter, for the purpose aforesaid, shall be and remain a fund for the exclusive support of a State university, for the promotion of the arts, literature, and the sciences; and it shall be the duty of the General Assembly, as early as may be, to provide effectual means for the improvement and permanent security of the funds and endowments of such institution.”

The Secretary of the Treasury selected these lands in the most fertile sections of the State; they were in the following

counties : Autauga, Bibb, Choctaw, Clarke, Franklin, Greene, Lawrence, Monroe, Montgomery, Perry, and Shelby, and were entered on the "ways" as the "University Lands."

The mere acceptance of this munificent grant of seventy-two sections of land from the general government, placed upon the people of Alabama the highest moral obligation faithfully to use the lands in strict compliance with the requirement of Congress, as stated in the act making the donation, which was, that they should be "*appropriated solely to the use of a seminary of learning.*"

Fully recognizing the force and nature of this agreement, and fully intending in the utmost good faith to comply to the letter with this self-imposed obligation, the people of Alabama in convention assembled, solemnly bound themselves to do so, by engrafting in the fundamental law of the State, that the money arising from the sale of these lands should (I quote the words of the Constitution of Alabama) "*be and remain a fund for the exclusive support of a State University.*" If we examine the act of Congress by which these lands were donated, and the provision in the Constitution of Alabama for accepting the gift, it will be quite evident that

2. THE LEGISLATURE OF ALABAMA WAS THE TRUSTEE OF THIS FUND.

In them we find every element of a simple trust, expressed in the very language used in the creation of private trusts between individuals. The United States, or general government, was the grantor, the Legislature of Alabama—the representatives of the State—was the Trustee, and the seminary of learning or the University of Alabama, was the beneficiary. The inviolate guardianship of this great trust was not in any manner constructive, but it was a positive pledge in the most solemn form by which the legislature and the people of Alabama were bound, and according to all rules of morality, all laws of honor, and all the dictates of common honesty, the

State of Alabama should require that solemn pledge to be faithfully redeemed. When the legislature converted the lands into money, it was still the trustee of the funds, and was bound to the same fidelity in the management of the money, as it was before the sale. The deposit of the funds in bank, or its conversion into bank capital for the State, worked no change in the character or duties of the legislature; it was a trustee still, but in this last case the State became liable for the funds thus converted to its own use by the legislature. The simple and irresistible conclusion forces itself upon every mind, that the Legislature of Alabama was made, by the act of Congress and the Constitution of the State, the trustee of this grant, and is now and always will be the trustee—and the State cannot avoid the responsibilities of this trust by delegating it to a Board of Trustees; it is still the duty of the Legislature to see that the trust is faithfully executed, that the affairs of the University are properly managed; for the Legislature of the State is primarily liable as trustee. All the acts in reference to this grant passed by the 1st, 2nd, 3rd, and 4th, sessions of the Alabama Legislature, provided for the use of these lands exclusively for the benefit of the University, the Legislature acting simply as a trustee.

Before passing to the next subdivision of the subject, I desire to call your attention to the fact, that the origin of the University fund, being from the proceeds of the sales of 46,070 69-100 acres of land donated by the United States, should silence the clamor of many throughout the State who suppose the University is supported by taxation, like the Insane Asylum and other charitable institutions; and should forever set at rest the ignorant cry that the institution is educating the rich at the expense of the poor. The fact is that most all the eminent graduates of the University came from the humbler walks of life. As I shall hereafter show, upon a fair and equitable statement of the account between the University and the State of Alabama, the University has never received one dollar from the State, for which she had not previously paid ten times the

amount, and that the State is to-day indebted to her University in an amount largely in excess of two millions of dollars.

In adducing testimony to establish my third proposition :

3. THE GROSS NEGLIGENCE IN THE MANAGEMENT OF THIS FUND,

I shall rely solely upon the acts of the Legislature, and the reports made by legislative committees. Out of its own mouth is the Legislature condemned, and the proposition established beyond any controversy.

The first Legislature of Alabama convened in 1819, and during the session an act was passed authorizing the Governor to appoint three commissioners in each county, in which was situated any of the University lands, and the commissioners were authorized to lease the lands for a period of one year. The second General Assembly which met the next year, authorized the same body to lease said lands for another year. At the third session of the Legislature, held in 1821, an act providing for a Board of Trustees was passed. This act vested all the lands embraced in the Congressional grant in the Board of Trustees thus created, of which the Governor of the State was, *ex-officio*, President. The Board of Trustees was authorized by the act which created it, to sell the lands at the minimum price of seventeen dollars per acre, payable one-fourth cash, the balance in four equal annual payments. (See Aiken's Digest, 1836, pp. 653-4-5.) This act provided that the Board of Trustees might dispose of the lands through agents appointed by them, and should receive and invest the proceeds of the sales as they might deem best for the interest of the University.

In 1822, the fourth session of the General Assembly was convened, and during this session an act was passed, which provided that the lands should be sold at auction, at a price not less than \$17 per acre, and on terms of one-fourth cash, the balance payable in eight equal annual payments. It also provided that , at the end of the term of credit, or within three

years thereafter, the purchaser could surrender his deed and convert his purchase into a lease for ninety-nine years, renewable forever, upon condition that he should pay interest at the rate of six per cent per annum on the amount he owed. The last section of this act here mentioned cost the University, up to 1836, over one hundred and forty thousand dollars, as I shall presently show. A large number of the purchasers took advantage of the University by the provisions of this act. "For years the agents failed to collect interest on these leases, and, finally, the archives of the President's office were broken into, and the records of the leases were mutilated—thus rendering it impossible to ascertain what lands originally owned by the University were held under lease."

The first meeting of the Board of Trustees of the University of Alabama was held in Tuscaloosa, in the year 1822. Israel Pickens was then Governor. No official investigation was made, but it was learned that a considerable portion of this property had been sold or leased. In 1823 a much larger proportion of these lands were sold, some of them bringing as high as \$60 per acre.

Before calling your attention to the reports of the Legislative committee acknowledging the confusion of the affairs of the University and the heavy losses it sustained in consequence of this incompetent and hostile legislation I shall present a remarkable instance of

4. THE MISAPPROPRIATION OF THE FUNDS OF THE UNIVERSITY.

At the first session of the Legislature after the State was admitted into the Union an act was passed by the General Assembly, entitled an act "To incorporate the Subscribers to the Bank of the State of Alabama," which was approved December 21, 1820. The capital stock was not to exceed two millions, two-fifths of which was to be reserved for the State and three-fifths to be raised by subscriptions from the citizens

of the State. Superintendents were named in the act, and appointed at each of the following places, to open books of subscription to the capital stock, to raise \$500,000 ; of which amount \$105,000 was to be raised at Cahaba, where the bank was to be located as long as Cahaba remained the capital of the State ; \$105,000 was to be raised at Huntsville, \$70,000 at Claiborne, \$50,000 at Tuscaloosa, \$50,000 at St. Stephens, \$30,000 at Courtland, \$25,000 at Montgomery, and the same amount at Mobile, \$20,000 at Blakeley, and the same amount at Demopolis. There was a provision in this act, that the public money of the State should be deposited in this bank when "lying inactive," and that the bank should be organized so soon as \$100,000 of the subscribed capital stock was paid in gold and silver. All efforts to organize a bank under this act proved a total failure. The Superintendents all failed to obtain the prescribed subscriptions. The citizens of the State wisely declined to put their individual funds into the State banking business, to be managed by politicians; but it seems they determined to have a bank, even if the State was required to furnish all the capital. So an act was passed on the 20th of December, 1823, entitled "An act to establish the 'State Bank of Alabama' ". The capital was not limited to any amount, and was to be furnished by the State *alone*.

The second section of this act creating "The Bank of the State of Alabama" is as follows :

"The moneys arising, or which may have arisen, from the sale or rent of the lands given to the State by the Congress of the United States, for the support of a seminary of learning, shall form, compose, and constitute a part of the capital of said bank ; and the Governor for the time being, together with the President and Directors of said bank, or a majority of them, shall be authorized and required, for and in behalf of the State, and with a pledge of the public faith and credit to issue to the trustees of the University of Alabama, State stock or certificates of debt, bearing an interest of six per cent. per annum, payable half yearly, to the said trustees, or kept sub-

ject to their order, according to the law of the State, to the amount of such sum or sums as may be, from time to time, paid over by said trustees to the President and Directors of said bank, the said interest to be forever applied to the use of said seminary."

Under this act, the amount of University money to be paid over as capital for the bank, was limited to one hundred thousand dollars, but this limitation of the forced loan was annulled by an act passed in 1827, and the State was then authorized to issue certificates to the trustees for any and all money that might be to the credit of the University fund. The Board of Trustees were required by these acts to receive from the State a six per cent certificate for all money to its credit in bank, and the bank was the depository of *all* the University funds, as the University had no treasurer of its own until many years afterward. Although in this transaction the fiction of the State "borrowing the money" was resorted to, to cover the real character of the transaction, it was virtually taking all the funds of the University to organize a bank which was to provide *cheap* money for its citizens, who had wisely declined to invest their individual funds in such a speculative enterprise. For several years the State made from 18 to 20 per cent. on the University funds, which it converted into bank capital, and paid the University six per cent.

But for the acts of the Legislature themselves, from which I have quoted extracts, it would be incredible to any reasonable man, that the General Assembly of Alabama could have enacted such laws for the sale of the lands, and the investment of the proceeds arising therefrom. The gross negligence manifested by such incompetent legislation in thus providing for the sale of the lands, and the investment of the proceeds, will be more apparent when we consider the object of the trust, and the magnitude of the fund committed to the Legislature. under the solemn pledge of the State for its protection. The 46,079 69-100 acres, at the minimum price per acre of \$17

would have brought \$783,354.73, and some of the lands sold for as much as \$60 per acre.

OTHER EVIDENCES OF GROSS NEGLIGENCE IN THE
MANAGEMENT OF THE FUND.

Instead of placing these lands in the hands of a bonded commissioner for sale, they were sold by seven unbonded agents in different parts of the State, under the control of the trustees in the different districts. There was no principal office and agent to keep a complete set of books and accounts, by which alone the actual condition of the affairs of the University could be ascertained, but each agent was expected to properly keep an account of his sales, and deposit the proceeds in bank. The personnel of the Board of Trustees, from some cause, was so frequently changed, that it was almost impossible for that body to extend a proper supervision over such a trust fund. The members of the Board were elected for three years only, and in 1834 there was only one member left of the first Board, appointed in 1822. From 1822 to 1833, a period of eleven years, the Board had in all forty-three different members. The State of confusion into which the lands and the finances of the University were destined to be thrown by such management as this, must have been foreseen by every prudent man. Can we imagine that any one would have provided such means for the management of his individual affairs? Such legislation indicated a willingness for the conversion of trust funds, or a gross ignorance as to the manner in which they should be managed. In a very few years under this system of management it became evident to everybody, that the affairs of the University were in a bad condition, as was shown by the fact, that all the agents, except the one at Tuscaloosa, were suspended by order of the Legislature or the Board of Trustees. The General Assembly of 1833-34 appointed a committee to look into and report upon the affairs of the University. This committee seems to have worked diligently and faithfully to

have performed this duty, and I here give you an extended extract from their report :—

“Your committee have, so far as the limited time allowed them would permit, examined the books, papers, and documents relating to the affairs of the University, from the time of its establishment to the present date. No system or method has been observed in keeping the accounts of the University, nor can your committee discover, from any books or papers submitted to their inspection, any means by which to list or ascertain with a reasonable amount of certainty, the true situation of the accounts of the various persons who have incurred responsibilities to the institution. They find on file various reports containing accounts of sales of University lands, showing to whom sold, for what amount, etc., but in some instances these reports have not been recorded, nor have accounts been regularly opened with the purchasers of University lands so as to show *whether the purchase money has been paid or not*. Bonds for debts due the University have, as appears by some of the documents examined by your committee, been placed out for collection without any evidence being retained, showing the liability of the person who received them. A report made by a committee of Trustees during the last summer, and prepared with great care, shows the fact that \$25,309.33 of University money stands upon the books of the University to the credit of certain persons who had collected and paid over the same, without showing of whom or from what source this sum was derived. If the books and accounts of this institution are in such condition as to render it impossible to ascertain from whom, and from what particular account, this amount was received, it would be difficult to ascertain from them whether all persons who have transacted business with and for the institution have accounted faithfully or not.”

“Your committee beg leave to submit herewith a copy of the report of a committee of the Trustees, showing the situation of the accounts and books relating to the business of the Uni-

versity." It is as follows: "The interest of the institution and the correct management of the liberal fund derived from the lands *granted to this State* for its *endowment*, require that something should be done to rescue from confusion and uncertainty, as far as practicable, the accounts and books of the University. To this end, your committee would recommend the passage of a joint resolution appointing the Comptroller with authority to associate with him some skillful accountant and book-keeper, to examine and investigate all accounts and reports of the sales of University lands; to ascertain to whom each particular tract was sold, for what price, the amount received thereon, including principal and interest, etc., and to examine into all disbursements made by the Board of Trustees, on what account, etc., and to bring up a regular set of books showing the full and correct situation of accounts of all persons who have had dealings with the institution, or any of its agents, and to cause such books to be delivered to the Trustees at their next meeting."

In obedience to this recommendation of the Legislative Committee, a committee of Trustees were appointed, and from their report to the General Assembly, in January, 1834, the following extracts are made:—

"The committee appointed for the purpose of making out a list of all lands that have been sold, belonging to the University, and the prices at which they sold, the number of acres sold, the number of acres unsold, and where they are situated, and the debts due the University, etc., submit the following sheets as the result of their investigations: So far from being aided in their enquiries by any well chosen system for keeping the University accounts, they have seen with astonishment that the vast concerns of the institution, involving transactions of upwards of a million of dollars, have been suffered by accumulation of undigested reports and other papers, to commence and to continue in the most perplexing confusion: The whole amount of lands granted to the University was 46,079.69 acres,

out of which 42,540.27 acres have been reported as sold for the aggregate sum of \$377,680.52, leaving unsold 3,539.46 acres.

If it be supposed by any one that this report is harsh, let him go to the books and papers, and a twelve month may safely be allowed him before he can, without the aid of those documents" (obtained by the committee) "lay his hand on a tract of land and say whether it is paid for or not, or if not entirely paid for, what amount of principal and interest is due thereon. These, in a concern of such magnitude, should all appear at a single glance; and yet it is doubtful whether any one of the circumstances could be made to appear without the aid of other facts than those which the present books and papers disclose. Let any one imagine for a moment that the whole affair is his, and that is the light in which every trustee at least should regard it, what would be his indignation and alarm at such irregularity and uncertainty ! The committee have not been able, from anything in possession of the Board, to report with tolerable certainty the amount of interest bonds yet unpaid, or the amount of interest due thereon. This arises also from the entire absence of all system in keeping the accounts. There is no bond book, or list of bonds, by which it could be ascertained when the bonds were made, the names of the obligors, when due, the amount, etc. But everything is left to abide the direction which chance may give it, or be overwhelmed in the great mass of confusion of which each particular forms a component part. That which was emphatically every member's business seems to have been the business of no member."

These reports of the Board of Trustees and of the Legislative Committee are quite sufficient to convince the most incredulous of the gross ignorance and culpable mismanagement on the part of the State, in the disposition of the University lands ; and the manner in which the proceeds of the lands sold were guarded, may be inferred from this loose, unmethod-

ical non-book-keeping system. The financial confusion is exemplified by the fact that at the very time the committee reported the receipts from land sales as \$377,680.52 there had been deposited in the Treasury of the State \$394,162.36 as shown by the statement of the Comptroller of the State on the 9th of January, 1834, which I copy in full as a fitting conclusion to this financial confusion :—

STATEMENT OF GEO. W. CRABB, COMPTROLLER
OF PUBLIC ACCOUNTS.

Expenditures incurred previous to 1st Jan'y, 1834,	\$	4,488.30
Erecting University buildings and improvements,		105,920.87
Compensation of prof's, tutors, and other officers,		32,055.68
Purchase of library, apparatus, etc.,	- -	13,102.04
Compensation of Trustees,	- - - -	6,412.73
" " Architect,	- - - -	2,851.25
" " Secretary of Board, etc.,	-	2,785.00
" " Treasurer and Comptroller,	-	1,300.00
" " other ag'ts for various purposes,		2,686.34
Purchase of fuel and hire of servants,	- - *	2,555.65
" " land near the University,	- -	1,250.00
" " a servant,	- - - -	412.00
" " stationery and furniture,	- -	125.50
Payment for printing done at various times,	-	945.74
" " recording patents and court costs,	-	114.05
" " surveying done by order of board,	-	100.00
" " rent of room for use of the board,	-	35.00
" " unspecified objects,	- - - -	916.22
Refunding overpayments,	- - - -	128.63

Total amount of expenditures,	- -	\$178,185.00
Am't invested in State stock and transf'd to bank,		215,977.36
Total am't disbursements from University funds,		\$394,162.36

Comptroller's Office, } January 9, 1834. }	(Signed) GEO. W. CRABB, Comptroller Public Acct's.
---	---

Another remarkable instance will now be presented, showing

4. THE MISAPPROPRIATION OF THE FUNDS OF THE UNIVERSITY.

It seems strange that these reports of the Board of Trustees and of the Committee of the General Assembly, in regard to the deplorable condition of the affairs of the University, were not answered by legislative enactments providing immediate relief to the institution; but it is far more incredible that at this same session to which these reports were made (on the 17th of January, 1834), an act was passed by the General Assembly *for the relief of the purchasers of the University lands*. By the terms of this act, commissioners were appointed to revalue the lands of the University which had previously been sold at seventeen dollars and upward, and which had been forfeited to the University by the failure of the purchasers to meet the notes given for the purchase money. Section 5 of this act provided, that after the re-valuation had been made by the commissioners, and notice given thereof, the holders of the certificates of the lands so forfeited and re-valued as aforesaid, shall be entitled to have said lands upon their paying to the University of Alabama the price affixed (by the commissioners) to said tracts. In all cases where holders of certificates (that is, the original purchasers or their assignees) had paid one-half of the principal on their tracts, they were entitled to take a lease on said lands (for ninety-nine years, renewable forever), as provided by the act of 1822. This is the act previously spoken of, and which up to this time has cost the University over a million of dollars.

Another act for the relief of the University debtors, entitled "An Act to regulate the collection of University debts," was passed January 7th, 1835. The 5th and 6th sections of this act are as follows :—

"5th. When forfeitures have accrued on any lands which have under any relief laws, been re-valued, it shall be the duty of the agent to adjust the same in the mode prescribed by law; and to release and give up any lands, notes, or judgments outstanding, and which may be satisfied and discharged by new bonds or payments under such relief law or laws.

"6th. In all cases when judgments have been taken or confessed in Franklin or any other county, and parties have taken the benefit of relief laws and given new bonds or made new payments, as provided for by an act approved January 17th, 1834, entitled 'An Act for the relief of purchasers of University lands,' the agent shall dismiss such judgment on payment of cost. (Aiken's Digest, 1836, pp. 653, 4, 5,).

"Another relief law passed at the same session of the Legislature, allows the purchaser of any tract, or town lots, or their *bona fide* assignees, whose claims have been forfeited by non-payment, to pay out the balance due on the same, together with all interest due at that time on or before the 1st day of June, 1836, and to receive a patent therefor."—(Aiken's Digest, 1836, p. 656.)

The loss to the University growing out of the relief laws, owing to the manner in which the books were kept, was very difficult to be ascertained. Under the Act of 1833-34, the Board of Trustees employed the Hon. B. F. Porter, an eminent lawyer of Tuscaloosa, to prepare a new set of books, from all the books, papers, and data he could obtain, in order to preserve a true record of the financial condition of the institution so far as its receipts and disbursements from the original land grant, was concerned.

Judge Porter devoted two years to the work of bringing up a set of books, showing the receipts and disbursements on account of land sales, and continued in the service of the Board two years longer collecting claims on the errors discovered, many of which were litigated. The result of his first two year's labor is contained in five large folio volumes, now in the

archives of the University. For his services, Judge Porter was paid by the Board of Trustees over twenty thousand (\$20,000) dollars. I have carefully examined the set of University books prepared by Judge Porter, and I here present a condensed statement from them, showing the financial status of the University on the 1st day of November, 1836, and giving his estimate of the loss to the institution from the relief laws which were passed by the Legislature of Alabama :—

FINANCIAL CONDITION OF THE UNIVERSITY NOV. 1, 1836,
BY JUDGE B. F. PORTER.

Amount derived from sale of lands to date, -	\$368,740.18
“ bonds for interest on deferred payments, 54,128.95	
“ sales of town lots in Tuscaloosa, Monte vallo, and Tuscumbia, - - -	13,975.39
“ interest on deferred payments for said lots, 1,571.64	
“ resale of lands under relief laws, - - -	51,959.01
“ interest on deferred payments on purchases under relief laws, - - - -	4,676.04
Total from first sale in 1824 to date, - -	\$495,051.21

At this date, November 1, 1836, Judge Porter classified the above as follows :—

Amount actually collected on land sales, - - -	\$327,866.24
“ of debts due as principal and interest, 22,945.79	
“ of loss from relief laws, for forfeitures, resales, leases, etc., - - -	144,239.18
	<hr/>
	\$495,051.21

According to this estimate, carefully made by an eminent lawyer, after two years' study, the University had lost, up to November 1, 1836, in consequence of laws enacted by the Legislature, the sum of \$144,239 18. If we take this amount as the only claim against the State, and add 6 per cent, deduct-

ing all loans and so-called donations made to the University by the State, the amount due the University on November 1st, 1896, will largely exceed one million of dollars, as the following calculation will show :—

1836.

Nov. 1. Amount lost by relief laws, forfeitures, re-	
sales, etc., - - - - -	\$144,239.18
To interest to Nov. 1, 1866, at 6 per cent.	
from Nov. 1, 1836, 30 years, - - -	259,630.50
	<hr/>
	\$403,869.68
Deduct amount used of \$70,000 loan, -	30,000.00

1866.

Nov. 1. Amount due at this date, - - -	\$373,869.68
To interest to Nov. 1, 1884, 18 years,	403,779.24
	<hr/>

1884.

Nov. 1. Deduct amount donated by State, -	60,000.00
	<hr/>

1896.

Amount due Nov. 1, 1884, -	\$717,648.92
Nov. 1. To interest due to Nov. 1, 1896, 12 yrs.,	516,707.22
	<hr/>

Amount due on this claim, Nov. 1, 1896, \$1,234,356.14

It will be observed in the above calculation, that the debt bears simple interest for 30 years, and then the accumulated interest is added, and this new principal then runs 18 years, when the interest is again added to form a new principal, which runs to date, a period of 12 years, when the interest is again added. This calculation favors the State, as no faithful trustee would fail to collect the interest on trust funds for such long periods of time.

No fair-minded man can ever dispute the justness of this claim, for the Legislature simply took the assets of the University, and applied them to the financial relief of the citizens of the State, and the State is bound by every honorable consideration to repay every cent. No subsequent legislative man-

date coercing a compromise with a protesting Board of Trustees can ever palliate such a monstrous wrong or discharge the State from liability. Nothing but its payment in full can ever satisfy the demands of justice and preserve the honor of Alabama. The people of the State should rise up and unite with the Alumni for the payment of this claim because their representative, the Legislature, plead guilty to the charge of gross negligence in their authorized agent, when through its own committee we hear the confession that "*What was emphatically every members business, seems to have been the business of no member.*"

I shall hereafter present an estimate made by Col. Francis Bugbee, in 1845, which includes other claims than the one presented by Hon. B. F. Porter, and one made by myself in 1895, which embraces the same claims as those made by Judge Porter and Col. Bugbee, and in addition one other claim against the State. But, treating this subject in a chronological order, I now have reached my 5th subdivision :—

5. THE CHARACTER OF THE COMPLAINTS AGAINST THE UNIVERSITY NOW, ARE THE SAME AS THEY WERE IN 1843.

o THEY GREW OUT OF THE SAME CAUSE WHICH PRO-
d DUCES THEM ^{*then*} NOW—A TOTAL INADEQUACY
 OF ENDOWMENT.

The condition of affairs now, at the University, are in many respects similar to what it was in 1843. The complaints are the same, and the remedy suggested by the friends of the University is the same which the Alumni are now urging and entreating the Legislature to adopt.

In order to prove these assertions, let me give you some extracts from reports made that year by the Board of Trustees, the Faculty of the University, and the Educational Committee of the General Assembly. Extract from the

REPORT OF THE BOARD OF TRUSTEES TO THE
 LEGISLATURE IN 1843.

"The Trustees deeply regret to mark the prevalence of mis-

apprehension and distrust with regard to an institution which should be, and must be, *cherished* in the affections of every intelligent and honorable mind. It is sometimes said, and perhaps believed, that the University is supported by the hard earnings of the poor for the benefit of the rich. It would be the extreme of charity to attribute such an assertion to ignorance. So far from the State having contributed to the support of the University as yet, it is unquestionable that the State has been, or ought to have been, largely profited; from the fact that, while the bank pays to the University six per cent, on its fund, this fund is a portion of the active capital of the bank, not as a *deposit*, but as a banking basis."

The Board, in this report, reviews the financial condition thus :—

"The sale of all the University land was effected some years since, and the available proceeds of such sales have now all been collected and paid into bank, with the exception of a small amount, part of which is properly secured and a part is still in suit.

"The aggregate amount of the original sale would not be greatly short of half a million of dollars. The abundant endowment by the liberality of the general government has, however, been greatly reduced by legislation, which relinquishes upwards of a hundred and fifty thousand dollars to the purchasers of University lands, through the operation of relief laws (parts of which have been quoted), by the heavy losses sustained in the insolvency of debtors, and by a course of irregular and wasteful management of the affairs of the University.

"The moneys accruing from the sale of lands were directed, by law, to be paid into the bank of the State, to become a portion of the capital of the bank, and a permanent fund for the University, which was not to be encroached upon. Before this fund was available, the Legislature authorized a loan by the bank to the University, of a sum sufficient for the erection of

the necessary buildings, to put into operation, as soon as possible, an institution of learning. In pursuance of this authority, the sum of \$64,500 was procured from the bank by the University at different times from 1829 to 1833. The entire amount of the University fund, after the losses and deductions above referred to, which is invested in stock of the bank of the State, is now (1843) \$300,000, upon which a dividend of six per cent annually is declared.

“The Trustees are decidedly of the opinion that it will be wholly impracticable with a diminished capital stock, upon dividends of six per cent., to sustain an institution of that high and respectable grade which alone would be adequate to meet the wants and expectations of an enlightened public opinion, and which could afford to our youth that liberal and thorough education which the people of Alabama know so well how to appreciate ; and which they will undoubtedly in the exercise of their own high virtue and patriotism, secure for their sons, even if they should be driven to seek it in other States and uncongenial climes.”

The report of the Board of Trustees from which the above are extracts, was referred by the Legislature to the Educational Committee of the General Assembly, which committee, in the faithful discharge of its duty, investigating the affairs of the University, addressed a communication to the Faculty of the University, asking, “If the University was in such condition as could be reasonably expected from its liberal endowment?” “And also enquiring, what is the condition of the University, when compared with similar institutions in the United States?”

The Reply of the Faculty to the Communication of the Educational Committee of the General Assembly of 1843, was written by Frederick Augustus Porter Barnard, D. D., S. T. D., LL. D., and D. C. L. This distinguished scholar and world renowned Educator, was then, a professor in our University, in which position he spent seventeen years of his valu-

able life, and I make no apology for quoting this reply of the faculty in full, showing as it does, the manner in which this institution has been treated by the State, answering the complaints then being made against the University, presenting the remedy if the complaints are well founded, and giving as a clear and comprehensive view of the mission and purpose of a really great University. For when the author of this report, was afterwards chosen as the President of Columbia College, New York, he found it a mere academic hall, like our University, and he left at his death, a truly great University with its hundred teachers.

Had Alabama listened to his wise counsel and furnished the means which justly belonged to this "seminary of learning," her University to-day would be the rival of Columbia University. The opinion of such a man should have great weight with all intelligent men. From his reply, we will see that he prescribes the remedy for the same complaints in 1843, which are being made to-day against the University, and ascribes the cause of these complaints to an ignorance of the real mission of a University, and to the mismanagement of the funds of the Legislature.

Answering the question of the Educational Committee, that the University *was not* in such a condition as could be reasonably expected from its liberal endowment; he then, adds:

(THE FACULTY'S REPLY TO THE EDUCATIONAL
COMMITTEE OF THE GENERAL ASSEMBLY.)

"Might not the people of the United States, to whose munificence it owes every dollar of its means, in reason have expected that the Legislature of the State of Alabama, would carefully guard the fund committed to that body in trust for the education of its own people? Might they not have reasonably anticipated that, in case that the Legislature should decree to discharge the debtors to that fund from their obligations, they would have felt bound in justice and honor to as-

sume those obligations themselves? Yet they have annulled the obligations of the debtors to the University; they have invaded the sacred principle of the inviolability of contracts; they have scattered to the winds one hundred and fifty thousand dollars of a donation committed to them as a *sacred trust*; and they have not offered in any manner or form, to restore the sum which was not theirs, and which they had no right to diminish by a single dollar.

“What is the condition of this University, when compared with similar institutions in the United States?”

This was one of the questions asked the Faculty of the University by the Legislative Educational Committee in 1843, and I give their reply written by Dr. Barnard, to those who are now asking the same question.

“If it be compared with other colleges, the oldest in the country, in regard to its course of study, it will be found to attempt nearly or quite as much as any; and if it be compared with what it actually accomplishes, as exhibited in the average attainments of its students, tried by any test, it will be found scarcely behind in performance.

In comparing institutions of learning with the view to determine their relative grades of excellence, different individuals may draw their inferences from different criteria. By one a given college may be rated as superior to another, because, at a given time, it numbers twice as many students. The next inquirer may rate it as vastly lower in scale, because on examination it appears to teach not half so much nor half so well.

One man may have his judgment, not on what the college can accomplish within itself, but also on the collateral advantages its students may enjoy, by having access to munificent libraries, and splendid apparatus. Another may be biased by the consideration of an ancient and venerable name, and another still by the fact that the studies which are favorites with them are more carefully taught in one institution than they

may happen to be taught in those which are regarded as its competitors or rivals.

Among these various methods by which we judge of the comparative merits of different institutions of learning, in the opinion of the Faculty there is one thing which should outweigh all other considerations. And this one in their opinion is the care and thoroughness which young men are taught in all those departments of knowledge, which, by the common consent of the civilized world, ought to constitute the substratum of education to every lettered man. Apply this test to the "University of Alabama, the Faculty fear no comparison with any college in the country." There are those, however, who cry out that a college is unprosperous unless it is overrun with numbers. Numbers are indeed desirable in every such institution; but they are not by any means desirable if by their presence, they break down its character, and reduce it from the standing of a college to the grade of an elementary school. The University of Alabama has a peculiar, specific, and a very difficult function to fulfill. Though it belongs to this institution, indeed, to educate the youth of the State so far as they may be sent here for the purpose of education; yet a responsibility more difficult still rests upon it. It belongs to the University to elevate the standard of education among this great people to something like respectability and keep it there. It has been said of its Faculty that they require a young man to be educated already, before they deem him competent to join one of the college classes. This simple observation is sufficient, if rightly understood, to show the benefit, which the University is indirectly conferring on the State. The very moderate requisitions for admission to the University are notorious. These requisitions will be found appended to the catalogue, of which a catalogue has already been submitted. And to comply with these is, at this moment, regarded by some as being educated in advance. Yet such an amount of education, the Faculty of the University, have and will insist, that all candidates for admission to the college shall have first passed

through. They exact no more than the Faculties of other colleges; but by steadily exacting this, they will in due time make it possible for young men everywhere, throughout the State to acquire those rudiments of knowledge, which it is not their business to impart. It is a principle infallible, in every human interest, that where there is a demand there will be a supply. By what means the primary schools of the State of Alabama are to be improved and multiplied and made respectable in character and in numbers, it is not a part of the present purpose of the Faculty to discuss. But that they will be so improved and multiplied and elevated, is inevitable; and that the necessity of passing through some preparation on the part of the candidate for admission to the University, is to constitute a steadily acting impulse urging on their improvement, is equally certain. Great numbers constitute, in general, the most trifling and shadowy and insignificant evidence of excellence in a school, which can be adduced. And if a seminary is young and is situated in a new country and nominally exacts some slight intellectual training as the condition in membership, great numbers suddenly collected furnish a very ominous indication as to the fidelity of its administration. It happened some fifteen or twenty years ago that in the opening up in Vermont a military school, nominally on the plan of that of West Point. Great numbers enrolled themselves among its members. So popular did the institution become that it was proposed to remove it to some more accessible position. The people of Middletown, Connecticut, successfully urged its transfer to that city. They were stimulated to erect buildings for its accommodation, and to provide the conveniences to facilitate its operations. It was removed. A branch seminary continued to be conducted on the original site. So generally pleasing to the people appeared the idea of intermingling the interests of Mars and Minerva, that the first originator of the plan began to project a great system of military schools to extend itself over the whole country, and of which he should be the general director and

chief. The number of young men collected together in a short space of time at Middletown was wholly unprecedented in the history of American colleges or academies. Yet did the military academy, therefore, flourish? By no manner of means. It sought for numbers and obtained them, but in so doing it pursued a policy most destructive and suicidal. Its character deteriorated until it fell far below common respectability. In disgust it was abandoned by its patrons, and in a very few years the noble edifices erected by the citizens of Middletown to accommodate an institution which they believed was to live through all time, were absolutely without a tenant. In fact, in judging of the prosperity of an institution of learning, the test of numbers is the most fallacious test which can be adopted. Character is the object at which every such institution should first aim, regardless of the effect which its efforts to attain this kind of respectability may temporarily exert upon the fulness of its catalogue of students. The Faculty of Yale College, responding to an inquiry proposed to them by the Board of Trustees, as to the course of education then prescribed and insisted upon, have some pertinent observations on this very point. They use this language: "It is a hazardous experiment to act upon the plan of gaining numbers first and character afterwards."

The proposition is so obviously true, that it might almost be stated as an axiom. That a certain kind of increase in numbers of the University, however, may fairly be regarded as an evidence of its increasing prosperity, the Faculty would not undertake to deny. But they assert that a healthy increase can only be gradual. For fifty years from its foundation, the University of Harvard graduated annually, on an average, fewer than seven individuals. For twenty years the average number of graduates at Yale College was but about five.

The demand for a high order of education among the people is neither great or general. Yet such a demand, to a certain extent, exists among every civilized people, and it is by com-

plying with it and providing for it, that the means are supplied for furnishing that more common and absolutely necessary kind of instruction, which the whole population require. If such a college prepare, every year, but a few men to instruct others, the immediate fruit of its operations may seem, indeed, to be small; but through those same men it is still to operate through a long series of years, and to carry the benefits of knowledge to hundreds and thousands. Thus no error can be more gross, than that of asserting that a college ought not to stand, because it furnishes an education of a higher order than the mass of the people are ready to receive. How are the people ever to be made ripe for learned institutions, but by first preparing the teachers who are to diffuse among them the elements of knowledge? The streams which flow into the ocean are fed by the evaporation of the ocean itself. And the students who throng the halls of colleges, are brought there by the learning which, silently as the vapor rises from the sea, these colleges have scattered through the land.

Of those who desire instruction that they may teach in towns, the majority are unable to obtain such an education abroad. They belong to a class of students whose means are limited and who cannot undertake distant journeys or meet the charges of the colleges of the East."

"The University of Alabama is among the least expensive colleges in this country. The Faculty therefore, feel justified in saying that, tried by whatsoever test the committee may choose to prescribe the University is in a prosperous condition, and that it favorably compares with similar institutions in the United States."

HOW TO JUDGE THE VALUE OF A UNIVERSITY.

"Of the value of a University there are two ways of judging. The first consists in the respectability of its graduates as scholars, of which the community at large must judge from the general intelligence which such graduates exhibit, but of

which, only the better educated can form accurate opinions. The second method is by an actual visitation and devotion of some time and attention to the process of daily instruction. There are always to be found in both branches of the Legislature, men whose opinion on a subject like this would command the confidence of the people of the State. The Faculty invite investigation of this kind. Let there be annually appointed a committee of the Legislature for the purpose of visitation and examination of this University. Let them plan for themselves any mode of conducting these inquiries which may seem searching and efficient. Visit the classes and see them as they daily appear, and are taught in the class-room, and then with truth before the people of Alabama, her citizens will disregard false rumors and interested slanders which decry their University. The Faculty ask to be judged in this manner and are willing to stand or fall by such a test."

Thus ends the reply made by the learned Dr. Barnard.

THE EDUCATIONAL COMMITTEE OF THE GENERAL ASSEMBLY
OF 1843-4 RECOMMEND A SETTLEMENT ON
EQUITABLE PRINCIPLES.

The Committee of the General Assembly, on Education, to whom the annual report of the Board of Trustees had been referred, after making a thorough examination into the affairs of the University, made their report to the Legislature, from which the following extracts are taken :

"From the report of the Trustees, the committee learn that the financial affairs of the Institution are not in so prosperous a condition as could be desired. It would seem that there have been expenditures made which trench upon the capital stock, contrary to the radical laws for the government of the fund. This is attributable in part to legislative enactments, by which the purchasers of University lands have been relieved from their contracts, to the manifest detriment of the Institution, and it now rests with the General Assembly to adjust a

settlement between the University and the State Bank, upon such equitable principles as may seem just and proper."

From this liberal endowment by the United States, the State University might, and should, now, have in possession at least a half a million dollars in some safe and secure investment. It might reasonably be expected to possess a Library, which would compare with that of older institutions, older, but much poorer colleges. The German Universities with 300,000 volumes already in their libraries appropriate, annually, several thousand dollars for the purchase of new publications. An annual sum should be devoted to this purpose. The officers of such an Institution are expected to be encyclopædias of science, walking lexicons of letters, and animated folios of statistics." With a meagre and insignificant library, which contains not one in 50 of the great and valuable works of reference, this is impossible. People often entertain singular ideas of the purpose and aim of a great public library. It should furnish the means of study, not so much the means of reading, as the means of studying. A college officer wishes to present to his class, when lecturing upon any subject, a summary of knowledge which all other enquirers have collected, and may consult 100 volumes in a day, without reading a single one."

The Legislative Committee, in 1843-4, recommended an adjustment of accounts between the University and the State Bank upon such equitable principles as may seem just and proper. This recommendation of this committee was acted on, in 1848, but we shall see when we review the transactions of that year, that the settlement was not upon equitable principles, but was a one-sided bargain, the terms of which were dictated and enforced by the doctrine of State sovereignty, as the University could not contest in the courts of the country the claims which it was forced to relinquish.

The fact that there was no legal tribunal to which the University could appeal for its rights, should have been the most cogent reason for a fair and equitable settlement.

JUDGE THE UNIVERSITY BY THE ONLY PROPER TESTS.

We ask you to judge your University of to-day by the tests given by this world renowned Educator whose biography "when written by some scientist whose breadth of erudition shall equal his own" will embrace, to a great extent, the history and progress of Education during his life. Judge your University by the first test mentioned—the respectability of its graduates. What would Alabama have been without them? In the halls of Congress, in the chambers of the General Assembly, inspiring the Pulpit, adorning the Bench, Bar and the Medical Profession, in all the varied walks of business life—and notably in the grand and noble army of teachers, the Alumni of the University are found, serving their State and generation, both in peace and war, with intelligence, devotion and honor; repaying manifold the benefits that the State, through the University has conferred on them. Among the number of her graduates let me call your attention to the following: In the first decade, 1831-1840, we have:

Wm. Woolsey King, Jurist, of New Orleans.

Robert B. McMullen, D. D., Presbyterian Divine and College President.

Alexander B. Meek, Orator, Historian, Statesman, Founder of the Public School System of Alabama.

Jere Clemens, Author, Orator, Statesman, U. S. Senator.

George D. Shortridge, Jurist and Statesman.

Clement C. Clay, Statesman, U. S. Senator.

Wm. R. Smith, Lawyer, Statesman, Poet, U. S. Congressman, College President.

Leroy P. Walker, Statesman and Jurist.

M. Augustus Baldwin, Attorney General, Alabama, for 27 years, 1838-1865.

Franklin W. Bowden, Lawyer and Congressman.

Oran M. Roberts, Governor of Texas, Jurist, Chief Justice of Supreme Court of Texas, Prof. of Law in University of Texas, Author.

Joshua Hill Foster, Baptist Divine, College President and Professor.

James D. Webb, Statesman and Lawyer.

Louis Maxwell Stone, Statesman and Lawyer.

In the second decade—1840-1850, we have :

Eldred B. Teague, D. D., Baptist Divine and College President.

Basil Manly, D. D. LL. D., Baptist Divine, College President, Theological Professor.

W. C. Richardson, Ph. D., College Professor, Author and Poet.

M. L. Stansel, Jurist and Statesman.

Wm. Henry Forney, Jurist and Statesman, U. S. Congressman.

Robert S. Gould, LL. D., Jurist, Statesman, Justice of Texas Supreme Court, now Senior Professor of Law, University of Texas.

John W. Pratt, D. D., Presbyterian Divine, College President and Professor.

Wilson G. Richardson, Presbyterian Divine, College Professor.

John Little Smith, Jurist and Statesman.

La-Fayette Guild, A. M., M. D., Medical Director, Army Northern Virginia.

B. F. Saffold, Justice, Alabama Supreme Court.

A. J. Battle, D. D., LL. D., Baptist Divine, College President and Professor.

Thos. H. Herndon, Jurist, Statesman, U. S. Congressman.

George W. Price, D. D., Methodist Divine, College President and Professor.

John Moore, Lawyer and Jurist.

John Francis, Clergyman, Editor and College Professor.

Hampton S. Whitfield, Attorney and College Professor.

James K. Armstrong, College President and Professor.

Charles Francis Henry, Surgeon Russian Army, Crimean War.

Leonidas Martin, U. S. Counsel.

L. V. B. Martin, Lawyer, U. S. District Attorney.

Alberto Martin, Lawyer.

Samuel Mills Meek, Lawyer, Orator, District Attorney.

In the third decade, 1850-1860, we have :

Jonathan Haralson, Lawyer, Justice Supreme Court of Alabama.

Wm. S. Wyman, LL. D., College Professor.

Robert K. Hargrove, D. D., LL. D., Methodist Divine, Bishop of M. E. Church South.

W. C. Cleveland, D. D., Baptist Divine.

George Little, Ph. D., of Berlin University, College Professor, State Geologist of Mississippi and of Georgia.

Charles Manly, D.D., LL. D., Baptist Divine, College President.

A. C. Hargrove, LL. B. (Harvard) Lawyer and Statesman.

H. M. Somerville, LL. D., Journalist, Lawyer, College Professor, Justice Supreme Court of Alabama, Trustee of Peabody Fund, Judge U. S. Board of Custom House Appraisers, New York.

B. B. Lewis, LL. D., Jurist, Congressman, College President and Professor.

W. J. Vaughan, LL. D., College Professor, now of Vanderbilt University.

Wm. H. Saunders, M. D., Surgeon and President of Medical Board of Alabama.

Ed'w Q. Thornton, Scientist, Geologist of A. and M. College at Auburn, Ala.

Taul Bradford, Lawyer and Congressman.

B. F. Meek, LL. D., College Professor.

R. H. Cobbs, D. D., Episcopal Divine.

Reuben R. Gaines, LL. D., Justice Supreme Court of Texas.

John Mason Martin, Congressman, Lawyer and Professor.

Newton N. Clements, Speaker House of Representatives, Congressman.

Edward Freeman Comegys, Teacher and Professor.

James E. Webb, Lawyer.

Samuel S. Harris, D. D., LL. D., Episcopal Divine and Bishop of Michigan, Author.

R. C. Jones, LL. D., Jurist, College President and Professor of Law.

J. T. Searcy, M. D., Physician and Superintendent of Alabama Bryce Insane Hospital.

In the fourth decade, 1860-1870, we have :

H. Austill, Lawyer, Judge and Chancellor.

Geo. W. Clark, Jurist, Attorney General of Texas.

Richard H. Clark, Jurist, Statesman, Congressman.

John Massey, LL.D., College President and Professor.

Sol. Palmer, LL. D., Methodist Divine, College President and Professor, State Superintendent of Public Instruction.

Eugene A. Smith, Ph. D., of Heidelberg, Scientist, College Professor and State Geologist.

W. S. Thorington, Judge, Supreme Court of Alabama.

Wm. Augustus Walker, Lawyer.

John D. Roquemore, Commissioned to codify Statutes of State of Alabama.

In the fifth decade, 1870-1880, we have :

T. C. McCorvey, College Professor and Author.

T. K. Powers, College President and Professor.

F. S. Moody, Jurist and Statesman.

B. Leon Wyman, M. D., Surgeon and College Professor.

Henry D. Clayton, Lawyer and Statesman, U. S. District Attorney, *Congressman*

Clement C. Shorter, Speaker of House of Representatives of Alabama and Lawyer.

Jesse F. Stallings, Lawyer and Congressman.

Chappell Cory, Lawyer and Journalist.

Samuel Minturn Peck, Physician and Poet.

In the sixth decade, 1880-1890, we have :

George F. Mellen, Ph. D., of Leipsic University, College Professor.

T. Morgan Clements, Ph. D., of Leipsic University, Professor of University of Wisconsin.

To this long list should be added many names of prominent distinction in business affairs who have reflected credit upon the State by their enterprise and energy.

Even under the cruel treatment of an unnatural step mother the University has brought forth sons, who are the peers of those nurtured by the foremost institutions of the United States, and who have reflected honor upon the State, and has added hundreds of intelligent, valuable citizens to the pursuits of business life, where achievements in life have largely increased the wealth and prosperity of the State.

Try your University by the other test mentioned by the learned Educator, Dr. Barnard. Send your committees to enquire into every department—what is taught, and how it is taught—and what discipline is enforced. Correct any and all defects, discharge all incompetent officers and teachers, but do not judge and condemn your University upon the general complaint “that something is wrong” whispered by interested parties, or by the bitter denunciations of those who are opposed to the Military System, nor by the exaggerated misrepresentations of outspoken active enemies. Adopt the most searching investigation, and it will be hailed with delight by the officers and every member of the Faculty, who are willing to stand or fall by this proper test.

These investigations and reports made in 1843-44, were followed by the appointment, by the Board of Trustees, of Col. Francis Bugbee, of Montgomery, who was then an active, zealous Trustee, and who served in that capacity over thirty-two years, and was one of the few devoted friends of the University, to examine carefully into the financial condition, the status of the lands granted by Congress, the income and expenditures and the bank indebtedness. Col. Bugbee prepared “an exceedingly able report, minute in detail and complete in statement,” which was embodied in the report made by the

Board of Trustees to the Legislature in 1845-46, and published by order of that body. See Garrett's Public Men of Alabama, page 360. I here present from that report :

THE FINANCIAL CONDITION OF THE UNIVERSITY IN 1845.

Amount invested in 6 per cent. State Stock, -	\$ 300,000.00
Cash in Bank to the credit of the University, -	11,553.01
	<hr/>
	\$ 311,553.01
Loss to the University from relief laws, (from Porter's Report,) - - - - -	\$ 144,239.18
Interest for 3 years at 6 per cent, - - -	25,963.05
Profits made by the Bank over 6 per cent. on University funds previous to 1837, - -	<hr/>
	\$ 108,962.00
Due the University from the State, - -	\$ 279,164.23
Deduct notes of the University held by Bank, -	64,500.00
	<hr/>
Balance due the University, - - - -	\$ 214,664.23

If we should adopt this estimate made by Col. Bugbee, as the correct amount of the loss of the University in 1845, and charge 6 per cent. interest on the amount, allowing as a credit the \$30,000.00 loan in 1866-67, and the \$60,000.00 donation in 1884, the present indebtedness of the State to the University of Alabama would be \$ 1,478,733.65.

AN ARBITRARY SETTLEMENT BY THE STATE WITH THE
UNIVERSITY UNDER PROTEST.

In February, 1848, an act was passed by the General Assembly entitled an act "To liquidate and settle the accounts between the University and the State of Alabama and for other purposes." An examination of the act will convince any one, that there was no estimate made of the loss to the University by the relief laws. It was simply a settlement of the account with the Bank, and arbitrarily reducing the debt due the

University, from \$300,000.00 to \$250,000.00 and then pledging the credit of the State for the punctual payment of interest on this latter amount, upon the condition, that the Trustees would relinquish all other claims of the University. I here quote the first two sections of this act :

Section 1. "*Be it enacted by the General Assembly of Alabama*, That the sum of Two Hundred and Fifty Thousand Dollars be, and the same is hereby recognized and declared to be the amount of the University fund, for the permanent security of which, and the punctual payment of the interest thereon forever, at the rate of six per cent. per annum, the faith and credit of the State of Alabama are hereby solemnly pledged."

Section 2. "*Be it further enacted*, That all notes held by the State of Alabama against the Trustees of the University of Alabama be, and the same are hereby, authorized and required to be delivered up to the said Trustees ; which notes when received by said Trustees, shall be considered and taken in full payment and satisfaction of all claims which said Trustees may have, or pretend to have, against the State of Alabama for interest, damages, or losses sustained, of every kind or description whatever, up to the date of this October, and said Trustees shall therefore file in the office of the Secretary of the State a written relinquishment on their part on all claims against the State."

In the language of that eminent scholar, W.S. Wyman, LL.D.: "This act is the last attempt of the Legislature of Alabama to play the part of the unjust step-mother to an institution solemnly entrusted to its guardianship and protecting care, by the act for the admission of Alabama to the Union." I will add that I have been hearing and reading of the cruel acts of step-mothers for the last fifty years, and I do not believe that all the acts of all the step-mothers in a thousand years, could equal this single act of Alabama in the enormity of its injustice. Just think of it ; when the University was

struggling for a bare existence, when threats of repudiating the University debt were being made, and the policy of doing so strongly advocated by some, that the Legislature of Alabama, sympathizing with such a sentiment, should make the then helpless condition of her only University the means of perpetrating such an outrage. Forcing the Board of Trustees, appointed by the State, to guard the interest of the University, to relinquish all claims, of every description, for money unjustly given by the State to the purchasers of the University lands, in order to obtain a part of the funds justly due the University, and which the State had used "for the benefit of the community" in providing a Bank to furnish cheap money to her citizens; who had wisely declined to organize the Bank with their individual funds.

The Board of Trustees were compelled to acquiesce in this forced settlement, or to close the doors of the University, as they had no other means of maintaining the institution. Had the Trustees to have rejected this forced compromise and to have closed the institution, they could not have litigated their claims in the Courts; the State could not have been sued for damages or on any account. After recording their solemn protest against this forced method of settlement, as being unjust to the institution, finally by ordinance adopted July 13, 1848, they acquiesced in the terms of this iniquitous settlement, and on the same day dissolved all financial relations with the State as far as they could by electing Henry A. Snow, Esq., as Treasurer of the University. Col. Robert Jemison, Jr., for seventeen years a State Senator, has frequently told me that when the Trustees acquiesced in this forced compromise, under protest, by which the University was compelled to receive \$250,000.00, as a full settlement of all claims against the State, that the grand old Roman, Col. Isham W. Garrott, who was killed at Vicksburg, being then a Trustee, denounced the settlement as an "ungodly robbery." I have also often heard Col. Jemison say, that at the time of this settlement, the State was justly indebted to the University over one million of dol-

lars ; and his opportunity and ability to know the equities of the account was equal to if not superior to that of any man in the State, as he served for many years on the committee of Ways and Means. In this transaction, the State attempted to do what one of England's greatest statesmen says no man can do, "mortgage his injustice as a pawn for his fidelity."

Last year, "The Atlanta Constitution," in its issue of June 16, published an extended review of the history of the University of Alabama, and it described the effect of this act of Legislature in 1848, on the finances of the institution as follows :

"The effect of this act was, and has been to rob the University of \$276,217.24, and the State is to-day by every rule of fairness and honesty indebted to the University in that amount, with interest for seventy-five years, minus a credit of \$50,000.00 in 1860, in the shape of an increase in the acknowledged interest bearing indebtedness, \$30,000.00 in 1865, and \$60,000.00 in 1883, with interest on these amounts."

By computing simple interest on these amounts and striking a balance, it will be seen that the State owes the University, outside of the \$300,000.00 on which it now pays interest, a net and equitable debt of \$1,414,033.84 ! Twelve years after the perpetration of this great wrong to the University, in the year 1860, the Legislature acknowledged the injustice of this settlement, by increasing the endowment fund from \$250,000.00 to \$300,000.00, under the incentive to engraft a military department upon the institution.

THE LEGISLATIVE FOSTERING CARE OF THE AGRICULTURAL
AND MECHANICAL COLLEGE OF ALABAMA, COMPARED
WITH THE MANNER IN WHICH THE STATE HAS
REDEEMED HER PLEDGE TO PROTECT
THE FUND OF THE UNIVERSITY.

Gentlemen of the General Assembly, we ask you to compare this treatment of the State University, with that which

the Agricultural and Mechanical College of your State has received.

The Legislature of the State has carefully guarded the endowment granted by the U. S. to the latter, and wisely rendered financial aid so that, even in its infancy, under thirty years of age, with an income of over \$60,000 per annum, it is on the high road to distinction among the best colleges of the land; when the State University with a much larger original endowment is now, at the age of 75 years, and has been, for a long period, struggling to maintain a bare existence as an Academic Hall, with a pitiful annual income of \$24,000. We ask this comparison in no spirit of envy. No, we rejoice that the State has kept faith with her Agricultural and Mechanical College, and that its prospects are so bright; "for if we have none of that spirit which can exalt mortals to the skies, we thank God, we have none of that other spirit which would drag angels down."

6. THE LOSS TO THE UNIVERSITY BY GROSS NEGLIGENCE
AND MISAPPROPRIATION OF ITS ENDOWMENT EXCEEDS
THE SUM OF TWO MILLIONS OF DOLLARS.

Having now presented these estimates of the loss sustained by the University, by virtue of these Relief Laws, and mismanagement of the funds, one by an Attorney of eminence, who was paid by the University \$20,000 for his services, the other by a Trustee of acknowledged ability and high integrity, and one by the first newspaper of an adjoining State, I now present an estimate made by myself. During the quarter of a century during which I have served the institution as Treasurer, I have become quite familiar with its past trials and wrongs, and although my estimate of the wrongs of the University from relief laws, mismanagement and misappropriations of its funds by the Legislature exceeds largely the other estimates in amount, still I feel satisfied that no Chancellor in the State will deny the equity of any item claimed; nor can any

accountant disprove the correctness of the calculation. The friends of the University can rely upon this estimate as a fair, just, and correct presentation of the equitable claim which that institution holds against the State of Alabama, and is as follows :—

1836.	To amount loss by relief laws, forfeitures, re-sales, and leases, -	\$144,239.18
	“ half amount fees paid Att’y Porter, -	10,000.00
Jan. 1. 1846.	“ to total loss on account as above, -	<u>\$154,239.18</u>
Jan. 1.	“ Int. for 10 yrs. at 6 pr. ct to Jan. 1, '46, -	92,543.50
	“ Profits made by bank prior to 1837, over and above 6 per cent., - - -	108,962.00
	Total loss up to Jan. 1, 1846, - -	<u>355,744.68</u>
	Less amount notes due the bank, -	64,500.00
1866.	Lost to Univ. after paying bank debt, -	291,244.68
Jan. 1. 1884.	To int. 6 pr. ct. to Jan. 1, 1866, 20 yrs., -	<u>349,493.61</u>
Jan. 1. 1896.	To amount lost at this date, - - - -	640,738.29
	“ int. 6 pr. ct. to Jan. 1, 1884, 18 yrs., -	<u>691,997.35</u>
	Amount loss to date, - - -	1,332,735.64
Jan. 1.	“ int. to Jan. 1, 1896, 6 pr. ct., 12 yrs, -	<u>959,569.66</u>
	Total equitable claim of the University, -	\$2,292,305.30

Charging the State, in the above account, with the profits made by the Bank prior to 1837, over and above the six per cent. which had been paid to the Trustees, is equitable and just. The Legislature admitted its justice, for by an act approved December 23rd, 1837, the profits thereafter made, by the Bank on University funds, were required to be paid to the Trustees ; thus recognizing the right to the profits which had been made previous to 1837, but which were retained by the

State. (See acts of the General Assembly 1837, page 32.)

ESTIMATE OF THE CLAIM OF THE UNIVERSITY AGAINST THE
STATE IN 1886 BY J. H. FITTS, TREASURER OF UNIVERSITY.

In my estimate I have not allowed the State a credit, for the loan of \$30,000 in 1866-67, and the donation of \$60,000 in 1884. Which amounts were used in restoring about one-third of the buildings, destroyed by the Federal forces, in consequence of the University being converted, by the State, into a military school for the training of soldiers for the war. If, however, it should be thought equitable to allow this loan and donation as credits, the estimate would be as follows :

1836.	
Jan. 1. To amount, loss by relief laws, forfeitures,	
resales and loans, - - - - -	\$144,239.18
Jan. 1. To half am't fee paid B. F. Porter, -	10,000.00
	<hr/>
1846.	154,239.18
Jan. 1. int. for 10 years at 6 per cent., - -	92,543.50
Jan. 1. Profits made by the Bank prior to 1837	
over and above 6 per cent., - - -	108,962.00
	<hr/>
	\$355,744.68
Jan. 1. By amount of notes due the Bank, -	64,500.00
	<hr/>
1866.	\$291,244.68
Jan. 1. To int. at 6 per ct. to this date, 20 yrs,	349,493.61
	<hr/>
	\$640,738.29
By loan in 1866-67, - - - - -	30,000.00
	<hr/>
1884.	\$610,738.29
Jan. 1. To int. at 6 per cent. to date, 18 yrs,	659,597.35
	<hr/>
	\$1,270,335.64
By amount of loan in 1883-84, - - -	60,000.00
	<hr/>
1896.	\$1,210,335.64
Jan. 1. To int. to date at 6 per ct. 12 yrs, -	871,441.66
	<hr/>
	\$2,081,777.30

THE STATE IS JUSTLY LIABLE FOR THE DESTRUCTION OF THE
UNIVERSITY PROPERTY BY THE FEDERAL ARMY IN 1865.

In April 1848, a heavy loss befell the University by two of the Professor's houses being destroyed by fire ; these buildings were worth \$10,000. On April 4, 1865, the Rotunda, with the Library of 25,000 volumes, the four Dormitories—Washington, Jefferson, Madison and Franklin, with the Lyceum were burned by the Federal troops, entailing a loss on the University, estimated at \$300,000.00. In considering the duty of the State to her University, these losses should not be overlooked, especially the latter, for it was in consequence of the military feature of the institution, that those buildings were destroyed, and this military feature was engrafted upon the University by the Legislature of Alabama in 1859-60, to provide the means for defense for the State in case of emergency. This military feature was not necessary for carrying out the purpose of the trust, which was the support of a "seminary of learning," and its addition in 1859-60, certainly caused the destruction of this \$300,000 worth of property, in 1865. After the close of the war, the financial condition of the State was such that the Legislature could do very little in aiding to restore the buildings which had been destroyed by the Union Army, but it provided for a loan of \$70,000 by an act which was passed in November 1865, for the purpose of enabling the Trustees to rebuild. The act required that one-half of the interest which the State pays on the \$300,000 endowment, should, after three years, be withheld by the State, until the loan and interest thereon should be paid. I was a member of the Board of Trustees and assisted in negotiating this loan, and as Fiscal Agent, and a member of the Building Committee, obtained and paid out the amount received on this loan which was only \$30,000.

The struggle and trials of the Board of Trustees in the rebuilding and reorganizing the University from 1866 to 1880, were great and onerous. It was emphatically a struggle for

existence, and but for the active interest of Governor Patton and the financial assistance of a private citizen, the payments for building Wood's Hall could not have been met. In 1883, the number of cadets at the University exceeded the means of accommodation, four students frequently were required to occupy one room. The entire income of the institution was needed to pay the officers and Professors, and having no funds with which to provide additional Dormitories, a strong and persistent appeal was made to the Legislature by a committee of the Board of Trustees, and a committee of Alumni, and the sum of \$60,000 was obtained. This amount was expended in erecting Manly and Clark Halls.

8. THE MANAGEMENT OF THE LANDS GRANTED TO THE
UNIVERSITY BY THE U. S. IN 1884 CONTRASTED
WITH THE MANNER IN WHICH THE ORIGINAL LAND GRANT WAS MANAGED.

"By an act of Congress, approved April 23, 1884, the State of Alabama was empowered, to locate for the benefit of the University 46,080 acres of the public lands within the State, to be applied to the erection of suitable buildings for the University, and to the restoration of the Library and scientific apparatus, heretofore destroyed by fire, the surplus, if any, to increase the endowment of the University. Under the authority conferred by this act, the Governor appointed three Commissioners, Hon. A. C. Hargrove, Prof. Eugene A. Smith and J. B. Moore, Esq., to make selections of said land," and said lands have been judiciously located in the mineral region of the State, embracing in the selection some of the best coal lands. The General Assembly, by act approved February 5, 1885, turned over the further management of these lands to the Board of Trustees, who at their meeting, in June, 1885, passed an ordinance for the sale of so much of said lands as the great needs of the University required. The ordinance provided for the election of a land Commissioner, and a committee of three Trustees, to be styled the "Committee on the Univer-

sity Land Grant''—said committee to be elected annually. Hon. A. C. Hargrove was elected land commissioner, and the fidelity with which he discharged all the duties pertaining to that office, as long as he lived, attest the wisdom of the choice. The necessities of the University were such that 14,296.02½ acres of these lands have been sold. The records of the lands granted by Congress in 1884, stand in marked contrast with the records of the original land grant in 1819. The books and maps of the institution relating to the former, kept by Col. A. C. Hargrove, Land Commissioner, show every fraction of an acre which has been sold, at what price, and to whom sold, and that every cent was deposited, as required by law, in the State Treasury, and they also show every acre remaining unsold. There are 31,783.97½ acres still on hand, which the Board of Trustees have determined to hold until better prices can be realized, in order that the endowment fund may be largely increased. All the money which could be realized from the sale of the lands, without too great a sacrifice, has been used in the construction of Garland Hall, Tuomey Hall, the Chemical Laboratory, Barnard Hall, the Philosophical Laboratory, and eight houses for the Professors, and in furnishing the institution with chemical and philosophical apparatus, and supplying it with Electric-works, a Laundry and Water-works. As Treasurer of the University, I submitted to the Board of Trustees a condensed statement of the receipts and disbursements from the proceeds of those lands up to 15th of June, 1896, and here present the same for your information.

9. STATEMENT OF RECEIPTS AND DISBURSEMENTS FROM
THE LANDS GRANTED BY CONGRESS IN 1884.

From the University fund to locate these lands, -	\$1,500.00
From Treasurer, proceeds sales, interest on notes and royalty, - - - - -	195,216.46
	<hr/> \$196,716.46

DISBURSEMENTS.

To Comm's—Smith and Moore—locating lands, -	\$2,000.00
“ Advertising, Printing and Record Books, -	175.35
“ Express charges on funds, - - -	151.68
“ Ditching University grounds, - - -	41.50
“ Repairs at University, - - - -	367.52
“ Expenses of Land Grant Committee, - -	401.08
“ Law Library, - - - - -	138.67
“ A. C. Hargrove's salary as Commissioner and expenses, 12 years, - - - -	13,706.42
“ University Fund account, - - - -	16,280.54
“ Building Fund account, - - - -	160,388.97
“ Prof. E. A. Smith, - - - - -	16.50
“ Cash on hand June 15, 1896, - - -	3,048.23
	<hr/> \$196,716.46

From its organization up to the present time our University has been thus hampered and crippled, either by a want of the necessary funds to provide suitable buildings, or for adding Professional Schools, by which the number of students would be largely increased. Owing to this want of numbers there has been a strong disposition, on the part of many of our citizens, to find fault with everything connected with our University; those complaints are not specific but of a general character, claiming that something is wrong or we would have five hundred students at the institution. Some believe that the military system is the cause of the limited number who attend, and these have petitioned for its discontinuance. Let every

friend of the University fully investigate the cause of the failure to obtain the large patronage, and insist upon the remedy being applied. If they will undertake this investigation, they should visit the University during term time, see how the various branches of knowledge are taught, which the institution, in its catalogue, claims to teach, and the discipline which is enforced. If they will do this, I think they will come to the conclusion that the University is now offering the best facilities, in all the academic studies, it is possible to give, with its limited means, and that it can do no more with its limited income of \$24,000 per annum—no matter whether the military or non-military system is adopted; no matter how able and zealous the Board of Trustees, or how wise and learned the Faculty. The Academic Department will compare favorably in numbers and in every other respect with that of the best institutions of the country. We must remember that it is not the students in the Academic Department of a University which largely swell the number attending, but the students attending the many professional schools. With the exception of a Law Department and an Engineering Department our University has no professional schools, and is simply (for want of means) an Academic Hall—a college. We have a University only in name, because the great State of Alabama has deprived her of the means of becoming a University in *fact*. We may rest assured we can never have large numbers in attendance until our College or Academic Hall expands into a University in fact, or the College degenerates to the level of a primary or elementary school. I trust the people of the State will never consent to the latter. The real cause of most, if not all the complaints against the University will be found now, as they were in 1843, to be from a total inadequacy of endowment. The Board of Trustees have no means with which to build up a great seminary of learning, and the Legislature of Alabama, the chosen Trustee of the fund, is to blame; for its means were not only mismanaged and misappropriated by relief laws for the financial relief of its citizens, but were used for specu-

at a sacrifice of interest
 lating in Bank stock for the purpose of supplying its citizens with cheap money, and the State is bound by every consideration of justice, equity and honor to restore the amount thus used and misappropriated.

I was a member of the Board of Trustees in 1866, when the plans for rebuilding were under discussion. The plan of which Wood's Hall was a part, was designed with a magnificent front building—estimated to cost \$200,000, to be erected in the future. Objection was made to this plan, because of the cost of the front building; it was asked, "When would the University ever have the means of erecting such a building?" In answering this question, that eminent Jurist, Chief Justice of the Supreme Court, the Hon. A. J. Walker, reviewed the claims of the University against the State, and ended by saying that it was certain that at some day, in the not very distant future the State of Alabama would rise to an equitable settlement with her University, and then the institution would, from her magnificent endowment, scarcely feel the loss of the \$200,000.00. The sentiments of the Chief Justice were concurred in by all the Trustees, among whom were Robert M. Patton, then Governor of the State; Thomas J. Judge and William M. Byard, Associate Justices of the Supreme Court; Hon. Francis Bugbee, Hon. Porter King, Hon. Wm. S. Mudd, Hon. Robert Jemison, Jr., and Hon. Walter H. Crenshaw. All of whom are now numbered among the dead. The plan was adopted on the belief of those eminent citizens that there was no doubt of the future recognition and adjustment of the claim of the University against the State.

10. THE MANNER IN WHICH THE STATE CAN REPAY THE
 UNIVERSITY FOR THIS HEAVY LOSS, NOT ONLY WITH-
 OUT ANY SACRIFICE, BUT ACTUALLY WITH
 GREAT PROFIT TO HER CITIZENS.

The time has now arrived when the State can repay this great wrong to her University, which these eminent citizens believed she would do, not only without loss, but with great

profit and benefit to herself. Two methods of State aid for the University have been suggested, one by a member of the Board of Trustees and the other by myself. The adoption of both, would prove highly beneficial to the State, and carrying them into effect, would be regarded by all the alumni and other friends of the University as a full and complete settlement of all claims against the State. I here present these plans.

1st. For the State to work or mine the University coal lands with its able bodied convict labor and pay the University a reasonable royalty. This would enable the State to have constant charge and supervision of her convicts, and thus to be able to properly protect them from overwork and ill treatment, and properly care for them when sick. This would be a very great gratification to a large class of citizens who have been appealing for better treatment and protection for the State convicts. The State could easily make a better profit by working the able bodied convict men in the coal mines than by hiring them to corporations for that purpose, and pay the University a reasonable royalty in addition. The State is now making provision to work the women and children in cotton factories, and her weak and sickly male convicts on the farm ; and by providing this work in the University coal mines for the able bodied healthy men, she would have an admirable and profitable convict system.

The other plan is for the State to settle her entire indebtedness to her University, including the present endowment of \$300,000.00 by acknowledging a debt of \$2,000,000, and if legal, issue bonds for the same. The debt or bonds to bear three (3) per cent. interest and to be payable semi-annually. This settlement to be made by the State on the expressed condition, that one-third of the interest from the debt or bonds shall be used by the Board of Trustees in maintaining and educating at the University, one young man or woman, of good moral character, in indigent circumstances, from each county in the State, upon their entering into an agreement to teach school in the State for three years after graduation,

wherever the State Superintendent of Education may direct, at salaries of \$400 each. This will place it in the power of each to repay the University and thus obliterate the otherwise unpleasant recollection of having been a scholar by charity. In addition to the amount necessary to maintain and educate these sixty-six students, the University would receive \$40,000.00 and the royalty from the coal mined, which would be sufficient for establishing other professional schools, that would largely increase its patronage and income. The law should provide that the students should be selected by a fair competitive written examination, and the places awarded by the Faculty of the University upon the merits of the examination papers, without knowing, if possible, the names of any of the applicants.

If this system of educating the young men and women was adopted, the cry of "educating the rich at the expense of the poor" would never again be heard, for it would render the institution dear to the hearts of all. It would become the object of love and affection by many. Educated men would soon be located in every county in the State, as teachers, who would feel a lively interest in their Alma Mater. An impulse would be given to the cause of education in the Public Schools which would be felt throughout the State. The Public Schools would be more benefitted under the successful working of this system, than by distributing over the State twice this amount for school purposes. In no other way could \$20,000.00 be better used for the building up of the Public Schools. Education trickles downward; it rarely climbs upward. A thousand Public Schools would never make a University, but a University working on this system would make a thousand Public Schools in no great period of time.

Gentleman of the Legislature, with you alone rests the power of applying these remedies and redressing these wrongs. The Alumni of the institution beg of you to remember, that these lands were donated by Congress for the sole purpose of establishing "a seminary of learning." The territorial con-

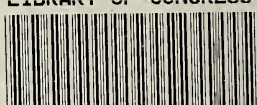
vention pledged, in the fundamental law, the constitution of the State, that the funds arising from the sale of these lands, should be, and remain a fund "for the exclusive support of a State University." The General Assembly of Alabama which convened in October, 1819, accepted these lands, in trust, for that purpose, and pledged the faith and credit of the State for its faithful execution. Then we beg you to remember that the lands, the funds and the property of the University, were used and appropriated by subsequent Legislatures, more for the supposed benefit of the citizens of the State, than for building up "a seminary of learning," or maintaining the University of Alabama. For the benefit of citizens who had purchased lands, which afterwards declined in value, relief laws were passed, cancelling \$144,239.18 of well secured notes belonging to the institution. "To secure to the community the benefits," these are the very words in the preamble of the act, a Bank was organized largely, if not entirely, with funds belonging to the University, and that previous to 1837, the State received profits from this investment amounting to \$108,962.00, which in equity belonged to the University.

To provide for the public welfare in 1859-60, it was thought necessary, that the State should be prepared for war to enforce by arms the doctrine of secession if the then contemplated Confederacy was established; a military department was organized at the University and the cadets of the institution were made a part of the militia of the State, in consequence of which \$300,000.00 worth of the property of the institution was destroyed.

Some of you, gentlemen, may be aspiring to political distinction, I ask you to remember, that dangerous innovation in politics are frequently attempted to be substituted for principles, which theory and experience have demonstrated to be founded in truth. If you would be patriots indeed stand by these great principles, lead public opinion in the paths of equity and honor, and then you will be statesmen indeed. Wipe out the memory of these Legislative enormities, build for your State a really great University commensurate with the magnitude of the delegated trust fund, and the growing demand of your State—and thus you will build for yourselves enduring fame and leave monuments of your worth more lasting than marble or brass.

J. H. FITTS, Chairman.

Tuscaloosa, Ala., October 12, 1896.



0 029 921 035 2